REMARKS

Status of the Claims

Claims 1, 7-9, 13-16, 18, 20-28, 30-37, 78-90, and 102-108 are pending in the instant application, of which claims 1, 8, 13, 15, 18, 22, 78, 83, 88, and 102 were amended in the Amendment filed on April 17, 2003 (hereinafter referred to as "the Previous Amendment").

The claim amendments are fully supported by the original claims and the Specification, and entry of the claim amendments is respectfully requested. For example, claims 1, 8, 13, 15, 18, 22, 78, 83, 88, and 102 were amended to clarify the term "dynamic variance"; these amendments are supported at page 11, line 8 to page 12, line 32, of the Specification as well as Figures 2 and 3. Reconsideration of the present application in view of the Previous Amendment and the remarks herein is respectfully requested.

esp, lines 25-30
illustrated Fig. 2
a_1 = dynamic variance, for # 208, for thickens
4-97A

Claim Restriction

Pursuant to the telephone conversation with the Examiner on May 9, 2003, pending claims 23-28, 30-37, 107, and 108, which do not recite calculating a dynamic variance or a controller adapted to calculate a dynamic variance, would be restricted.

Alleged Requirement for Further Consideration and/or Search and Alleged Issue of New Matter

The Examiner alleges that the amendments to claims 1, 8, 13, 15, 18, 22, 78, 83, 88, and 102 in the Previous Amendment raise new issues that would require further consideration and/or search. For example, the Examiner alleges that the ability of the controller in the apparatus to calculate dynamic variance, and in the method claims, raises a new issue that would require further consideration and/or search.

The Examiner further alleges that the amendments to claims 1, 8, 13, 15, 18, 22, 78, 83, 88, and 102 that were made in the Previous Amendment raise the issue of new matter. For example, the Examiner alleges that "[t]he cited support on page 11, line 8, to page 12, line 32 was reviewed for support, but no discussion of calculating dynamic variance by subtracting minimum and maximum point intensities within a predetermined time was found."

However, a controller adapted to "calculate a dynamic variance within a predefined time period of the signal by subtracting an intensity value at a minimum point from an intensity value at a maximum point" is neither a new issue requiring further consideration and/or search, nor does this amendment raise an issue of new matter. Additionally, a method comprising "calculating a dynamic variance within a predefined time period of the signal by subtracting an intensity value at a minimum point from an intensity value at a maximum point" is neither a new issue requiring further consideration and/or search, nor does this amendment raise an issue of new matter.

Claim 79, as pending before the Previous Amendment, recites that "the controller is adapted to evaluate the dynamic variance ..." Therefore, the limitation of calculating a dynamic variance was present in the claims before the Previous Amendment. Furthermore, the Specification at page 11, lines 25-28, defines "dynamic

variance" as "the change in amplitude over a predefined time period of the amplitude trace, for example, the amplitude change a_1 in the trace labeled 208 [of Figure 2]." The referenced example "a_1" of trace 208 of Figure 2, shows that the change in amplitude is the extent of change of the signal intensity over that predefined time period. The cut-off point on the left side of the trace is the beginning of a "predefined time period," and the cut-off point on the right side of the trace is the end of a "predefined time period," where the horizontal axis represents time. The value of "a_1" is indicated by arrows that extend from a minimum point to a maximum point of the intensity signal over this predefined time period. Therefore, the extent of change of the signal intensity, a_1, Is synonymous with the subtraction of the "intensity value at a minimum point" from the "intensity value at a maximum point" within that predefined time period.

Thus, these amendments do not raise new issues requiring further consideration and/or search. Furthermore, these amendments do not raise the issue of new matter.

Indication that Rejections are Overcome

Applicant appreciates the Examiner's indication that "the art rejections over Jamestowne Silver Polish would be overcome by these amendments [in the Previous Amendment], so would those over Busta et al., Christol et al., Schoenborn for claims proposed with the 'calculate' limitation."

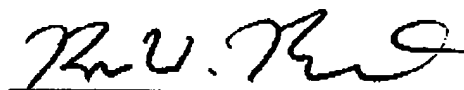S:\CLIENT\APPLIED\EDPT\3117\AMEND.003.DOC

CONCLUSION

For the foregoing reasons, allowance of the instant application is respectfully requested. Should the Examiner have any questions regarding the above amendments or remarks, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

JANAH & ASSOCIATES
A PROFESSIONAL CORPORATION

Date: May 9, 2003   By:

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